

KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

601 Lexington Avenue
New York, New York 10022

Dale Cendali, P.C.
To Call Writer Directly:
(212) 446-4846
dale.cendali@kirkland.com

(212) 446-4800

www.kirkland.com

Facsimile:
(212) 446-4900

November 18, 2015

Via ECF and Facsimile

Hon. Alvin K. Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Fox News Network, LLC v. TVEyes, Inc.*, No. 13 Civ. 5315 (AKH)

Dear Judge Hellerstein:

We represent Plaintiff Fox News Network, LLC (“Fox News”) in the above-referenced litigation. In accordance with this Court’s November 6, 2015 Order Setting Terms of Injunction (Dkt. No. 183), we write jointly with counsel for Defendant TVEyes, Inc. (“TVEyes”) to address: (1) the issue of damages in this litigation; and (2) a stay of the injunction issued by the Court.

It is Fox News’ position that it is entitled to damages pursuant to 17 U.S.C. § 504. TVEyes, however, intends to appeal, pursuant to 28 U.S.C. § 1292(a), the Court’s November 6, 2015 Permanent Injunction and Final Order (Dkt. No. 184), as well as the November 6, 2015 Order (Dkt. No. 183) and the Court’s August 25, 2015 Opinion and Order (Dkt. No. 173). Fox News intends to cross-appeal to address the Court’s refusal to enter an injunction with a broader scope in those opinions and in the Court’s September 9, 2014 Order and Opinion (Dkt. No. 86). The parties agree that now is the appropriate time to address these issues on appeal. The appropriate filings associated with the parties’ respective appeals will be filed timely in the coming weeks. In light of the foregoing, the parties jointly request that all proceedings in this case be stayed, including the submission of a delineation on any issues of damages that may remain, pending final resolution of their forthcoming appeals.

In addition, TVEyes respectfully requests that the Court stay the following paragraphs of the Permanent Injunction and Final Order (Dkt. 184) pending final resolution of the parties’ forthcoming appeals: ¶¶ 1(c), 2, 3, 4, 5 and 6. Fox News does not oppose this request. The parties submit that a formal motion requesting a stay of the injunction is not necessary, given Fox News’ lack of opposition to TVEyes’ request; however, should the Court require a formal motion and briefing by TVEyes before issuing the requested stay, TVEyes respectfully requests the opportunity to bring such a formal motion.

KIRKLAND & ELLIS LLP

Hon. Alvin K. Hellerstein
November 18, 2015
Page 2

Sincerely,

A handwritten signature in blue ink that reads "Dale Cendali". The signature is written in a cursive, flowing style.

Dale Cendali, P.C.

cc: Todd Anten, Esq.